

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

CHRISTOPHER W. WALTERS

PLAINTIFF

v.

CAUSE NO. 3:16cv711-LG-FKB

COMMISSIONER MARSHALL FISHER

DEFENDANT

ORDER ADOPTING REPORT AND RECOMMENDATION

This cause comes before the Court on the [13] Report and Recommendation of United States Magistrate Judge F. Keith Ball with respect to Plaintiff Walters' petition filed pursuant to 28 U.S.C. § 2254. Defendant Fisher filed his [9] Motion to Dismiss the petition based on Walters' failure to exhaust his state remedies. Walters then filed his [11] Motion to Answer, which Magistrate Judge Ball construed as a response to the Motion to Dismiss.

On May 1, 2017, Judge Ball recommended that this Court grant the Motion to Dismiss because Walters did not exhaust his state remedies. Plaintiff Walters has not timely objected to any aspect of the Magistrate Judge's Report and Recommendation. Where no party has objected to the Magistrate Judge's Report and Recommendation, the Court need not conduct a de novo review of it. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court need only review the Report and Recommendation and determine whether it is either clearly erroneous or contrary to law. *See, e.g., United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having conducted the required review, the Court is of the opinion that Magistrate Judge Ball's Report and Recommendation is neither clearly erroneous nor contrary to law. Accordingly, the Court finds that the [13] Report and Recommendation should be adopted as the opinion of this Court.

IT IS THEREFORE ORDERED AND ADJUDGED that the [9] Motion to Dismiss is **GRANTED** and the [11] Motion to Answer is **DENIED**.

IT IS FURTHER ORDERED AND ADJUDGED that Plaintiff Walters' petition is **DISMISSED WITHOUT PREJUDICE**. A separate Final Judgment will be entered.

SO ORDERED AND ADJUDGED this the 19th day of May, 2017.

sl/ Louis Guirola, Jr.
LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE